595 pressly recognized as lawful as early as the composition of the Mâtigân-i-Hazâr Datistân.[17a]

[10V] On the southern slopes of the Caucasus, in high isolated valleys, we find the GEORGIAN mountain tribes, the Khevsurs, Tushi, Pshavs and Svans, who, owing to their isolation, have preserved the ancient Georgian culture better by far than their brothers in the lowlands, and therefore, when speaking of the Georgians, we shall limit ourselves as much as possible to these four tribes.[17a+]

Formerly plural marriages were of frequent occurrence in *Khevsuria*. "In former times," writes Nansen, "polygyny was general," or in the words of the original, "war früher an der Tagesordnung."[18] By "formerly" we mean before the conversion of the Khevsurs to the Orthodox Church.[19] But a deeply ingrained customary law cannot be easily "repealed" and such is the case in Khevsuria in regard to the right of having more than one wife; for, even today, although rarely, some Khevsurs still insist on marrying several women.[20] The *Svans* are "monogamists" but, like the Khevsurs, they gave up plural marriages only after their conversion to Christianity. They are mono-

[584] gamists officially and economically, but, like the Khevsurs, they are sexually polygamous: in order to evade the law of the Church, the Khevsurs and the Svans introduced extremely easy divorce, a form of *successive* polygamy. Divorce is so frequent and easy (almost an annual affair) that we hesitate to call it monogamy.[21] G. Radde, in his monograph on the Khevsurs, claimed that many had been divorced and remarried ten times before they were 35 years of age.[22]

And now if we pass on to the non-Caucasian neighbours of the North Caucasian tribes, we find that the Mohammedan as well as the Christian OSSETES countenance polygyny, but as elsewhere it is rare, as rare as wealth.[23]

[585] As a rule, only the two highest classes, the princes and the *aldars* could afford more than one wife. In fact, there are even special *adats* which seem to reserve the privilege for these classes.[24]

The TURCO-TARTARS of the Caucasus have had a great share in the moulding of modern Caucasian culture and consequently demand our consideration.

Vambéry in his *Die primitive Kultur des turko-tatarischen Volkes* (pp. 71 f) assures us that not even the slightest traces of polygyny can be found among the primitive Turco-Tartars. In fact their language lacks such terms as "secondary wife," "bastard," and "prostitution."[25]

[17a] *Hasting's Encyclopedia of Religion and Ethics*, V, p. 745.

[17a+] The Svans are "Georgians" only in a broad sense of the word, meaning "South Caucasians."

[18] F. Nansen, *Through the Caucasus to the Volga*, p. 58; *Durch den Kaukasus zur Wolga*, p. 39.

[19] G. Radde, *Die Chewsuren und ihr Land*, p. 90.

[20] C. Hahn, *Bilder aus dem Kaukasus*, p. 82; A. Byhan, *La civilisation caucasienne*, p. 114. R. Eristov, "O Tušino-Pšavo-Chevsurskom Okruge," ZKO, III (1855), p. 113.

[21] F. Bodenstedt, *Die Völker des Kaukasus*, I, p. 282. N. Dubrovin, *Istorija*, Tome I, Bk. II, p. 109.

[22] Radde, *op cit.*, p. 113. *Cf.* R. Briffault, *The Mothers*, II, pp. 269 ff.

[23] Dubrovin, *op. cit.*, Tome I, Bk. I, p. 329.

[24] Leontovič, *Adaty kavkazskich gorcev*, II, p. 12, § 10; p. 14, § 27; p. 16, a 40.

[25] Schmidt-Koppers, *Völker und Kulturen*, p. 204.

[Sic--Analyst]

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595 from polygyny is, above all, a shortage of rubles.[43] The same holds for the
593 Avars,[44] and, as we learn from Sveščin,[45] for the other Lesghians as well: the economic factor plays an important part in making polygyny relatively rare. Klaproth found the institution a veritable luxury in Ossetia, being only for the richest of the rich,[46] in full harmony with the Ossetine *adats* which reserve the right for the two richest classes, the princes and the *aldars*.[47] Grabovskij's [587] report[48] that even the *poor* Ingushi were polygamists we have partially explained by obligatory levirate, which was just as much obligatory for the rich as for [605] the poor. Moreover social stratification (which generally coincides with wealth and poverty) was practically non-existent during Grabovskij's visit in Ingushetia (*infra*, pp. 60 f); therefore, if polygyny is to be found among the Ingushi at all, it must be found also among the "poor" class.

[586] Easy divorce may do away with plural marriages as it did in Khevsuria and Svanetia, but in North Caucasia easy divorce plays only a very insignificant rôle compared with economic and biological factors.

§ 2. THE RULES OF ENDOGAMY AND EXOGAMY

000 Lowie defines exogamy as "the rule which prescribes that an individual must find a mate outside of his own group, whether that group be the family, the village or some other social unit."[49] The opposite rule "which makes it compulsory for a man to mate within his group is labeled endogamy." Lowie rightly stresses that it is not the *de facto* marriage within one's own group but the *prohibition* of marrying outside it that constitutes endogamy.[50]

1. The Impediment of Consanguinity

582 Consanguineous marriages are strictly prohibited throughout NORTH-
[614] WEST Caucasus. In his expedition of 1927 Ladyženskij ascertained that the reports of earlier writers about the abhorrence of incest among the tribes of Northwest Caucasia still exists today. Marriages between members of the same sib, regardless of the degree of remoteness, are considered incestuous.[51]

671 Among the NORTHEASTERN peoples the practice is not uniform. Ing-
582 ushian adats are by far stricter than Islamic law in regard to marriages between

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[43] *ibid.*

[44] L'vov, "Domašnjaja i semejnaja žizn Dagestanskich gorcev avarskago plemeni," SSKG, III (1870), p. 20.

[45] D. Sveščin, "Očerk narodonaselenija nravov, i obyčaev Dagestancev," ZKO, II (1853), p. 64.

[46] J. Klaproth, *Voyage au Mont Caucase et en Géorgie*, II, p. 249.

[47] *Leontovič, Adaty kavkazskich gorcev*, II, p. 12, § 10; p. 14, § 27; p. 16, § 40.

[48] "Ekonomičeskij i domašnij byt žitelej gorskago učastka inguševskago okruga," SSKG, III (1870), p. 21.

[49] R. Lowie, *Primitive Society*, p. 16.

[50] *op. cit.*, pp. 16 f.

[51] J. Reinegg, *Allgemeine historisch-topographische Beschreibung des Kaukasus*, II, p. 9; Ladyženskij, FT, p. 198.

583 [562] We do not wish to say that bride price in the strict sense of the word does not exist in Daghestan at all. The unfavourable position of the female sex in Botlikh is rightly attributed by Rossikov and Erckert to the fact that she is still considered as purchased property, as chattel.[29] The *iol-puli* of the North Tabassaranians was anything but trivial.[30] In the "Adat Collection of the South Daghestanian Districts" we learn that it varied between Rs. 100 and Rs. 400, a maiden costing more than a widow.[31]

Even in localities where the *kalym* is so insignificant that it is actually only a symbol there are certain, and by no means trivial, expenses which must not be overlooked. First of all, there are not a few betrothal gifts (*infra*, pp. 102 f); then there are the relatively expensive marriage gifts, of which we shall speak below when describing the Lesghian wedding (*infra*, p. 119).

[584] There is, moreover, the so-called *kebin*, a guarantee against divorce. Just because it is the bride who benefits from the *kebin*, it cannot be considered as a bride-price. It is a security for the bride in case of divorce and is usually determined by mutual agreement, depending, of course, on the economic and social position of the contracting families. A widow of the *uzden* class, for example, never received more than a guarantee of Rs. 55.[32] In the province of Kazikumukh (Lak) and Dargwa the *kebin* usually consists of a piece of land having a value of Rs. 50 to Rs. 200.[33] Among the Kapuchians it consisted of money, about Rs. 10 to Rs. 20, while among the Tabassaranians up to Rs. 40. In the Avar Province the *adats* do not fix a definite amount, leaving it entirely to the two families concerned.[34] In North Tabassaran the guarantee was usually between Rs. 15 and Rs. 40 for a maiden and Rs. 5 to Rs. 20 for a widow.[35] The [177] *kebin* (*mahr*, *kebin-khak*, *magar* as we sometimes find it in Russian literature) evidently owes its origin to Mohammedanism.

The SOUTHERN CAUCASIANS. Eristov speaking of the Khevsurian custom of about one hundred years ago informs us that the bride received no dowry but that a price always was insisted upon.[36] Similarly, the Pshav would marry his daughter only if he first received a satisfactory price for her.[37] It is [586] worth noting that the Ingiloi (the Georgians of Sakataly) had to pay a higher kalym for widows than for virgins, Rs. 75 and Rs. 50 respectively.[38] The reason for this regulation seems to be that the widow being older is more liable to be divorced and has less chance of re-marrying than a young girl, and therefore needs a higher *kebin*.

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[29] K. N. Rossikov, "Poězdka v Čečnju i Nagorny Dagestan," ZKO, XIII (1884), p. 248. R. Erckert, *Der Kaukasus*, p. 284.

[30] Kovalevskij, *Zakon*, II, p. 179.

[31] "Adaty Južno-Dagestanskich Obščestv," SSKG, VIII (1875), p. 32.

[32] Svečin, "Očerk narodonaselenie, nravov i obyčaev Dagestancev," ZKO, II (1853), p. 64. For custom of the Avars see L'vov, "Domašnjaja i semejnaja žizn etc."

[33] Confirmed by Kovalevskij's own field work. See his *Zakon*, II, p. 179.

[34] *ibid.*

[35] "Adaty Južno-Dagestanskich Obščestv," SSKG, VIII (1875), p. 32.

[36] "O Tušino-Pšavo-Chevsurskom Okruge," ZKO, III (1855), p. 113.

[37] *ibid.*

[38] Hahn, "Putešestvie v Kachetiju i Dagestan," SMOMPK, XXXI (1902), p. 60.

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husband gives his future spouse an engagement gift as a pledge that he will marry her. Seidlitz,[57] Eristov,[58] (writing of the Khevsurs and Pshavs respectively), and King Vakhtang's Code seem to imply that the fiancée alone is bound by the promise to enter upon marriage. In any case, there is no doubt that her obligation is, by far, more binding than that of her lover. In Pshavia the engaged girl whose lover dies before marriage is obliged to move into her deceased fiancé's house and live there for a year before she may marry another man.[59]

With the OSSETES, on the contrary, the suitor does not enjoy more right to dissolve the betrothal promises than the girl. He may refuse to marry only if he discovers an essential defect, such as sickness and loss of virginity,[60] which she failed to manifest before the betrothal.

Among the TURCO-TARTARS of the Caucasus, the Nogai and Kumyks, the obligation of marrying is bilateral. If the male partner refuses to marry, the girl and her family may retain the bride wealth received from him so far. Moreover, he is obliged to make restitution for all the *damna emergentia*. If the female partner refuses to marry, everything received from her lover must be restored to him. If she has been deflowered by him, he must marry her. Of course, if he so wish, he may divorce her immediately after the marriage and bear the usual expenses connected with a divorce (*kebin*).[61]

TABLE 14

Obligations Arising from Engagements

People	Mutual Avoidance	Fidelity		Marriage	
		Suitor	Fiancée	Suitor	Fiancée
Abkhaz	+		+	−	+
Cherkess	+		+	−	+
Chechens	+		+	−	+
Lesghians	+ −		+	+ −	+ −
Georgians	+		+	−	+
Ossetes	+ −		+	+	+
Nogai			+	+	+
Kumyks	+		+	+	+
Karachai	+		+		

[57] "Gemeinde- und Familienleben der Chewsuren," *Das Ausland*, XVI (1891), p. 319.
[58] *op. cit.*, p. 111.
[59] Makalatija, "Iz starogo narodnago byta Pšavov," SE, 1938, No. 1, p. 110.
[60] Kovalevskij, Coutume contemp., pp. 193 f.
[61] "Adaty žitelej kumyskoj ploskosti," SSKG, VI (1872), p .16. Cf. Dubrovin, *op. cit.*, I, i, p. 638.

581 764 Caucasus clearly shows that the peoples of North Caucasia believed that a marriage tie could continue in the next world. However, since we do not have the slightest evidence that suttee was *obligatory*, the most we can say is that *perhaps*, at one time, death could not dissolve marriage.

2. Levirate

581 587 Once an Ossetine woman was married, she was considered bound to her husband forever unless divorced, as is evident from the following remarkable facts. (1) The widow was not allowed to marry outside her husband's family; the father or brother or son of the deceased man was obliged to take her to wife, but this second marriage was considered merely a *continuation* of the first. (2) The children of the second marriage were regarded as the sons and daughters of the *deceased*. (3) The children received the name of the deceased. (4) If the [589] widow had no brother-in-law, father-in-law or step-son, she had to remain unmarried, or live in concubinage, the children born becoming the sons and daughters of the deceased, even the legal heirs of the deceased. The marriage and concubinage had only one purpose: to "raise seed" and "build up the house" of the deceased till the wife would once again join him in the other world. These facts seem to be sufficient proof for the indissolubility of marriage even by death! Unfortunately, we do not have such details about the ancient levirate of the other peoples living in the Caucasus. However, when treating of preferential mating we did find obligatory levirate among the Ingushi and came to the conclusion that most probably the levirate was formerly obligatory also among the other mountain tribes.[8] In a word, it is quite *possible* that at one time death did not dissolve a marital bond.

§ 2. BY DIVORCE

586 The *adats* of all mountain peoples of Caucasus permit divorce. When speaking of divorce we must make a very clear distinction between the rights of the *husband* and those of the *wife*, between a *valid* divorce and a *justifiable* divorce.

[849] The NORTHWESTERN CAUCASIANS. According to reports of the eigtheenth century, a wife might be desmissed in Abkhazia if she were "sterile," that is, if she did not give birth to a child before she was 30, or if she remained childless for five successive years.[9] However, a *valid* divorce is possible at will. The Temirgoi, for example, may divorce their wives "if they do not please their husbands."[10] Such is the case throughout Abkhazia and among the Cherkess today.[11] Although formerly the women in Northwest Caucasus were at a very great disadvantage in regard to divorce, today, they too may abandon their husbands without any special legal grounds. However, in such arbitrary

[8] Cf. *supra*, p. 73.
[9] Reineggs, *op. cit.*, Part II, p. 9.
[10] Vasil'kov, "Očerk byta Temirgoevcev," SMOMPK, XXIX (1901), p. 101.
[11] Cf. Ladvženskij, FT, p. 199.

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dissolutions of the marriage bond, the husband forfeits the *kalym*, while the wife, on her part, must return it to the man she unjustifiably abandons.[12] On the other hand, if the husband has sufficient grounds for a divorce, the *kalym* must be refunded; or if she justly abandons her husband, she need not return it. Legal grounds for a woman are impotency of the man for over a year and cruelty,[13] whereas a man (at least among the Temirgoi) may divorce his wife for disrespectfulness toward her parents- oder brothers-in-law or laziness.[14]

The wife never has a right to any special alimony. In case of divorce, she may take her personal property along, that is, personal gifts, and if the divorce was not justifiable, her *kalym*. She never receives additional support, except if she has a child less than a year old, in which case she is given, in addition, 10 *puds* of flour, 10 *puds* of millet, and not more than two sheep.[15]

The children always remain with the father. If one of the children is less than a year old, the mother may keep the child and nurse it till its second year, when it must, without delay, be returned to its father's family.[16] Since divorce is relatively frequent, in some Cherkess families we find children of two, three, or even more, different mothers.[17]

A Cherkess and Abkhazian divorcée is free to re-marry, provided the regulation regarding the *kalym* has been carried out.[18]

If the partners wish to reunite after a divorce, they can do so only if a marriage with another person and a subsequent divorce intervened. The intermediate marriage and divorce may have taken place only an hour before the re-union, it matters little. They are nevertheless indispensable. Of course, the "re-union" is more than a mere re-union; it is actually a second marriage between the same partners.[19] This practice evidently is of Islamic origin.

The NORTHEASTERN CAUCASIANS. The divorce regulations of the Chechens are much the same as those of the Abkhaz and Cherkess, but, owing to their greater isolation and slower acculturation, the divorce rights of the female partner have not reached the advantageous level of the Northwesterners.

In pre-Soviet times, a husband had far greater rights to dismiss his wife than a wife had to abandon her husband., A husband might validly divorce his wife at will, but his wife was not allowed to abandon her husband without first having received his consent.[20] Or again, as another *adat* has it: the infidelity of a wife is considered sufficient grounds for dismissal, but the infidelity

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[12] *ibid.*

[13] *ibid.*

[14] Vasil'kov, *l. c.*

[15] Ladyženskij, FT, p. 203.

[16] *ibid.*

[17] Vasil'kov, *op. cit.*, p. 102.

[18] Byhan, *La civilisation caucasienne*, p. 155.

[19] Ladyženskij, *op. cit.*, p. 199. This is a typically Islamic custom, cf. Koran, ii, 230. Cf. Juynboll, *op. cit.*, pp. 229—232; also, A. Gren, "Kratkoe izloženie Šariata," *Tersbij Sbornik*, III (1892), No. 2, Part 2, p. 16.

[20] Leontovič, II, p. 170, § 123; p. 175, § 160. "§ 123 ... žena na razvod prava ne imeet, bez soglasija muža. Mužu že dozvoljaetsja razvod vo vsjakoe vremja, ne sprasivaja soglasija ženy." [Sic -- Analyst]

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of a husband never justifies a wife to divorce him.[21] In fact, the inequality was even far greater: although a husband's wilful act of adultery was not sufficient grounds for a divorce, rape suffered by an innocent wife was.[22] Other legal grounds for a divorce were sterility of the wife or the fact that she was "capable" of giving birth only to girls,[23] which is but another form of "sterility."

A divorcée has no right to a special alimony. Instead, she has her own personal property and especially her *kebin*.[24]

If a wife abandons her husband for any reason other than the few legal grounds granted her, she not only must return all engagement and wedding gifts received from her husband, but her family must also return the entire *kalym*. In fact, she may not re-marry till the *kalym* is refunded. Sometimes the husband out of mere malice refuses the *kalym*, so that the divorcée must remain unmarried for the rest of her life.[25]

The children remain in the father's household, even if he should soon die after the divorce,[26] the guardianship always remaining in the male line.

According to Lesghian customary divorce laws, which, on the whole, are in harmony with the *šarī'a*,[27] the female mate is again at a disadvantage. An *adat* for North Tabassaran says that "the husband has the right to divorce his wife at any time... But a wife may abandon her husband only if he is impotent, or if he has a contagious disease, or, finally, if he is unable to support her."[28] The disadvantage lies in the restricted legal grounds justifying the women to abandon their husbands and the almost unlimited possibilities of a justified divorce of the men. However, the expression "at any time" in this *adat* is an exaggeration. If a husband divorces his wife unjustifiably, he must pay the sum promised (*kebin*) and forfeits the *kalym*. If the wife abandons her husband for any other reason than the three grounds enumerated, she loses her right to the *kebin* and her family is obliged to refund the *kalym*.[29] Of course, if the husband is willing to pay the *kebin* and lose his right to a refund of the *kalym*, he may divorce her, literally, at any time.

Another occasion for divorce is the so-called *khatun-tallkh*. It is a common form of oath in Daghestan, which only a married man can take. The husband declares himself ready to dismiss his wife if he swear falsely. If he has several wives, he must specify which wife he will dismiss in case of perjury.

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[21] Leontovič, II, p. 173, §§ 150, 152.

[22] Leontovič, II, p. 172, § 143.

[23] Grabovskij, "Ekonomičeskij i domašnij byt, etc.," p. 21.

[24] Leontovič, II, p. 169 f, § 119; p. 176, § 172. The special decision of 1862 in this regard seems to be an imitation of the Islamic *kebin*.

[25] Leontovič, II, p. 175, § 166: "čtoby razvedennaja žena ne byla 'ni emu, ni drugomu.'" See also Grabovskij, *op. cit.*, pp. 51 f.

[26] Grabovskij, *op. cit.*, p. 53.

[27] Kovalevskij, *Zakon*, II, pp. 199 f.

[28] "Adaty Južno-Dagestanskich Obščestv," SSKG, VIII (1875), pp. 32. Kovalevskij, *Zakon*, II, p. 199.

[29] "Adaty Južno-Dagestanskich Obščestv," *l.c.*

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The *khatun-tallkh* is a much stronger oath than any other in Daghestan, even stronger than an oath on the Koran. The wife, therefore, may be the innocent victim of her husband's falsehood. 586 695

The *khatun-tallkh*, according to Robertson-Smith (*Kinship in Early Arabia*, p. 77) and Kohler ("Ueber das vorislamitische Recht der Araber," *Zeitschr. f. vergl. Rechtsw.*, VIII [1888], pp. 246, 251) is a pre-Islamic oath incorporated into Islamic law. Kovalevskij, who cites both authors, maintains that Islamic missionaries are responsible for the practice in Daghestan.[80] We cannot deny the possibility of Islamic origin, but mere similarity is no sufficient proof. If such argumentation were methodologically indisputable, we should be justified in concluding that the levirate, polygyny, divorce, and other institutions have been imported from Arabia. All that we wish to say is that it is not at all so certain that the Caucasian *khatun-tallkh* is of Islamic origin, as Kovalevskij would have us believe. An oath, by its very nature, seeks the strongest sanction possible. Now, we have shown, when treating of the attitude of the Caucasians toward plurality of wives, how highly a wife is esteemed. She is, we said, the best family investment. To be forced to surrender her would therefore be a very efficient sanction against perjury. It may very well be the high esteem for the value of a wife and the need of a strong sanction that gave rise to the *khatun-tallkh* long before Islamism appeared on Caucasian soil, and perhaps belongs to a common substratum of ancient Arabian culture and Caucasian customary law. [177]

Although the question regarding the guardianship of children after divorce has not been studied, we may conjecture that Lesghian *adats* restrict the right to the father alone. Guardianship, as a general rule, in primitive societies, follows the norms of inheritance: in patrilineal families the children remain with the father, in matrilineal, with their divorced mother. Since inheritance is fundamentally patrilineal according to ancient customary law of the Lesghians, we feel justified in making this hypothetical assumption.[81] 586 [428]

The women of the neighbouring peoples enjoy about the same rights of divorce as do the North Caucasian women. Everywhere they are at a disadvantage.

SOUTHERN CAUCASIANS. Eristov tells us that during his time the Georgian mountain tribes would divorce their wives for the least provocation. It happened now and then that a week after marriage the bride would not turn out to be as pleasing as the groom had imagined, or as good a housekeeper as the groom's family hoped for; such a disappointment was sufficient to occasion a divorce.[82] She could also be dismissed for superficiality, theft, or laziness.[83]

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[80] Kovalevskij, *Zakon*, II, p. 127.

[81] *Cf.* Abercromby, *op. cit.*, p. 97, who believes that the Avars do not have a fixed rule in this regard.

[82] Eristov, *op. cit.*, pp. 112 f.

[83] Seidlitz, "Gemeinde- und Familienleben der Chewsuren," *Das Ausland*, 1891, No. 17, p. 336. If the woman had a son, it was much more difficult to divorce her (a custom of the Pshavs), *cf.* Makalscija, "Iz starogo narodnago byta Pšavov," p. 109.

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586 It is very difficult to determine just what rights women enjoyed according to Georgian customary law. King Vakhtang's Code tells us that women had no right to abandon their husbands, except in case of cruelty,[34] and, we may [587] add, sterility.[35] If she nevertheless runs away from her husband, the Code tells us, she may not marry another man unless she pay the full bloodwite corresponding to her husband's social rank,[36] a sum which she generally cannot afford.[37]

After a divorce the children remain with their father. The mother may take her suckling with her if her husband agrees and if she promises to return the child after it has been weaned.[38]

Formerly the OSSETINE women had no possibility of divorce at all, except, of course, in the Mohammedan parts of Ossetia.[39] Today her condition has somewhat improved.

But we do not wish to say that the wife had no protection against an unjust dismissal. An arbitrary divorce was indeed valid, but it involved a great economic loss for the husband. In such cases he would have to forfeit the *irad*, a third of which went to the divorcée. If he did have legal grounds for divorce, a third of the *kalym* would be refunded to him, or earlier still, a half of the *kalym* would be refunded in all cases of just divorce except in case of adultery, when the wife's family would have to return it entirely.[40]

In Ossetia the divorcée must return to her father's house or else re-marry, but remarriage is always difficult because such women are considered as "bad wives."[41] The children, as a general rule, remain with the father.[42] The main legal grounds for divorce are: infidelity, sterility, impotence, and certain physical defects and sicknesses of the wife.[43]

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[34] Karst ed., p. 109.

[35] Dareste, *Etude d'histoire du droit*, p. 133, cited by *A. H. Post, Grundriss der ethnol. Jurispr.*, II, p. 116.

[36] Karst ed., *l. c.* Cf. also Eristov, *op. cit.*, p. 113, *note*, who says that the average bloodwite was about Rs. 80 about an hundred years ago.

[37] Nansen, *op. cit.*, p. 58.

[38] Seidlitz, *op. cit.*, p. 336.

[39] Kovalevskij, *Coutume contemp.*, p. 174.

[40] Kovalevskij, *op. cit.*, p. 173. Klaproth, however, maintains that even in the case of unfaithfulness the husband received only half of the *kalym* because the husband was considered partly at fault for his wife's adultery, in so far as he did not watch over her conduct as closely as he should have. He had received her as a virgin, that is, the family of his wife had taken great pains in watching over her virtue till her wedding day. At marriage this obligation passed over to her husband (Klaproth, *Voyage au Mont Caucase et en Géorgie*, II, p. 250). However, this entire explanation seems to be somewhat artificial. We should not, I think, stress the culpability of the husband, as Klaproth does, but rather the effort of the family in preserving their daughter a virgin up to the time of her marriage, which deserves compensation. Moreover, the husband has derived not an insignificant economic profit from his wife up to the time of the divorce, whereas the family was deprived of it. This too deserves a compensation. This latter explanation is not far-fetched. The neighbouring Georgian mountain tribes have their *namashvrali*, that is, the husband must pay the divorcée one cow for every year she has lived with him.

[41] Kovalevskij, *l. c.*

[42] Kovalevskij, *op. cit.*, p. 174.

[43] Kovalevskij, *op. cit.*, p. 173. See also Pčelina, "Rodil'nje obyčai u osetin," SE, 1937, No. 4, p. 88.

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Summing up the results of our comparitive study we may say :

(1) It seems that at one time divorce was an exclusive right of the husband, almost everywhere in North Caucasus.

(2) Throughout the Caucasus, the husband has the right to dismiss his wife *at will*. The most arbitrary divorces are recognized by customary law as valid.

(3) The *adats* always make a distinction between a merely *valid* divorce and a divorce that is both valid and *justifiable*.

(4) Although the divorce rights enjoyed by the women do not equal those enjoyed by the men, the rights of the former have greatly increased, mainly through Islamic and Russian influence.

(5) The inequality lies mainly in the grounds which render a divorce justifiable.

(6) After a divorce the children remain with the father. In a word, the divorce laws are again typical of a patriarchal society.

In conclusion, it may be interesting to note how the fireplace, which played such an important part in the marriage ceremonies of the North Caucasians, is not overlooked when a marriage is dissolved. By walking round the hearth three times, the new bride got in touch with the groom's ancestors and thus officially became a member of the household. Though the fireplace ceremony is very rare in Northeastern Caucasia, it seems to play an important part in the dissolution of marriage. Thus in certain localities of Daghestan, when a woman is declared divorced, she goes to the hearth, takes a handful of ashes and throws them into the wind.[44] It may very well be that the relation of the fireplace and divorce has been overlooked by the explorers. By scattering the ashes she is perhaps trying to undo what she did by walking round the fireplace on her wedding day or shortly after. Even though the two practices may not coincide today (i. e., locally), the possibility that they did coexist formerly is not excluded.

Finally, a word about an institution closely resembling divorce, mentioned by J. G. Georgi in his *Beschreibung aller Nationen des russischen Reichs, ihrer Lebensart, Religion, Gebräuche, Wohnungen, Kleidung und übrigen Merkwürdigkeiten* (1776) which includes among the "Merkwürdigkeiten" the so-called *trial marriages* of the Cherkess. Within a given time the wife had to prove her fertility, otherwise the union would be dissolved. Recently similar temporary or trial marriages have been discovered in Ossetia.[45]

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[44] Cf. Kovalevskij, *Zakon*, II, p. 201.

[45] Ladyženskij, "Zur Erforschung der Rechtsgewohnheiten der Bergvölker des Kaukasus," *Zeitsch. f. Ethnologie*, LXII (1930), p. 232, *note* 1.

the person raped is a minor or an adult: blood-enmity or bloodwite of Rs. 250 (AJuDO, p. 9).

(14) If the adulteress escapes, she becomes the blood-enemy of her husband as well as of her own family. The same holds for her lover. The offended husband is allowed to kill his wife and spare the adulterer, but not vice versa, without becoming a *qanly*. In case of fornication, if both partners are not killed, they have the strict obligation of marrying or else become outcasts and are banished (AJuDO, pp. 43 f).

(15) If a man is accused of adultery and fails to justify himself by an oath taken together with 40 conjurors, the adulteress may be killed by her husband. If a husband decides to kill his adulterous wife, her lover automatically becomes a blood-enemy. The adulterer can choose to pay a bloodwite of Rs. 60 and a fine of six head of cattle instead. The fine is paid to the district (AJuDO, p. 26). If the father of a girl insists, the man who had intercourse with her must marry her, otherwise he must pay a fine of six oxen and becomes a blood-enemy of the girl's family (AJuDO, p. 26). The penalty for raping a widow is three head of cattle. If the woman attacked is married, the offender becomes a blood-enemy if he fails to justify himself by an oath taken together with 40 conjurors (Cf. AJuDO, p. 26).

(16) The adulteress may be divorced (ADOiZO, p. 548, § 19; Dirr, AGKB, p. 75). If the offended husband makes use of this right, the adulterer must pay a bloodwite and is banished for 20—30 days (*ibid.*).

(17) The fornicators are obliged to marry, otherwise they may be killed by the girl's family. Anyone who rapes a girl, widow, divorcée, or a married woman is obliged to marry her, otherwise he too may be killed (AJuDO, p. 48).

In pre-Russian times it was sufficient if the husband had learned by mere hearsay that his wife had been unfaithful: he could at once inflict the death-blow without further investigation.[27] Although during the Russian occupation the right to kill one's adulterous wife still existed (namely, if the wife had been caught in the act or if she had fled with her lover on being detected, or if she had been found guilty by the people's court), the husband seldom made use of his right. A wife was generally divorced, and as compensation, the offended husband kept all her property.[28] We say that she was "generally" divorced, for, if we go through the various criminalogical reports of the Russian (pre-Soviet) times, we find not a few cases where the right to kill has been actually made use of. To mention but a few of these official reports: "December 28, 1869, a citizen of the aul Orot, of the Province of Avaria, by the name of Gamzat Labazan-ogdy, stabbed his brother to death because Ali (his brother) had committed adultery with Gamzat's wife, whose name is Patimat Mutalilov-kizy."[29] Or again, "December 12, 1869, a native of the aul Arsug ... having caught his wife, Kifi Rodzheb-kizy, in an adulterous union with his co-villager, Ramazan Adzhab-Palay-ogdy, killed her with the help of her own kinsman, Dzhabrank Tseyd-ogdy."[30]

The Lesghians love to repeat the ballad of Nika Bulat. It is a tragic tale indeed, but a tale that clearly conveys the deep conviction of these mountaineers of the heinousness of adultery. Nika Bulat, we must remember, was a righteous

[27] Kovalevskij, *Zakon*, II, pp. 195 f.
[28] Similar changes are noticeable throughout the Caucasus.
[29] "Iz gorskoj kriminalistiki," SSKG, III (1870), p. 19.
[30] *ibid.*